

REMARKS

This amendment is being filed in response to the Office Action dated March 13, 2006. A three month extension of time is also being filed herewith as is the Request for Continued Examination. The Examiner rejected claims 1-3, 5-7, and 9-18, and objected to claims 4 and 8. Although the drawings have been objected to with respect to the limitations of claim 15, that claim having now been cancelled is submitted as making this objection moot.

Claim 1 was rejected under Section 112, second paragraph. Claim 1 has been amended to add the clarifying words "second chamber", thereby satisfying this rejection. Claim 5 was rejected under Section 112, second paragraph. It has been amended to add the clarifying words "second chamber", thereby satisfying this rejection. Claim 12 was rejected under Section 112, second paragraph. It has been amended to add the clarifying words "second chamber", thereby satisfying this rejection. Claim 14 was rejected under Section 112, second paragraph. It has been amended to add the clarifying words "intermediate chamber", thereby satisfying this rejection. Thus it is submitted that the rejections under Section 112, second paragraph have been satisfied. Therefore, Applicant submits that the rejection of claims 1-18 under Section 112 should be withdrawn.

The Examiner rejected claims 1, 2, 5, 9 and 12-15 under 35 USC 102(b) based on Gibbs, US Pat. No. 1,305,710, newly cited. Claims 1 and 12 have been amended to include the limitation that the first chamber planar plate member has a top surface and a bottom surface with the aperture formed therein extending through said planar plate member from the planar plate member top surface to the bottom surface. This is not

shown in Gibbs. Furthermore, claim 1 recites that the second chamber has a cone atop said second chamber bottom surface. This is not true with respect to Gibbs since the cone member is suspended above, not atop, the second chamber bottom surface. This can be appreciated by a careful consideration of the structure of Gibbs. In Gibbs, the second chamber in effect hangs from the walls 6 of the first chamber as disclosed on page 2 lines 26-32 of the reference. The cone of Gibbs is also state as being supported in receptacle 16, such that it can not be atop the second chamber bottom surface, with this structure of Gibbs being disclosed on page 2 lines 56-80. Thus the structural limitations of claim 1 of Applicant's invention are not disclosed in Gibbs, and would not be obvious since this would require complete modification of the structure of Gibbs with such modification going contrary to the explicit teaching of Gibbs that the second chamber hang from the top of the wall of the first chamber so as to suspend the cone above (but not atop) the bottom surface of the second chamber. For these reasons independent claims 1 and 12 are not anticipated nor made obvious by Gibbs, and therefore the claims rejected based on Gibbs should now be allowable.

The Examiner also rejected claims 1-3, 5, 6, 9-13, and 16-18 under 35 USC 103(a) based on Rignell, US Pat. No. 2,722,883 in view of Zugg, US Pat. No. 177,978, newly cited. Claims 1 and 12 have been amended to include the limitation that the second chamber bottom surface is planar and extends across said second chamber. The second chamber bottom surface of Rignell as construed by the Examiner is only a flange 12 which extends only a short way into the interior of the chamber as disclosed in column 1, lines 46-50. It cannot extend across the second chamber, since to do so would

preclude the placement of the coals at the bottom of the first chamber of Rignell as construed by the Examiner, thus defeating the operation of the reference. Thus the proposed modification of Rignell would not be obvious to one of ordinary skill in the art.

Additionally, claims 1 and 12 have been amended to recite that the cone has a sidewall with a plurality of apertures extending therethrough. Zugg explicitly discloses that its cone has non-perforated walls. This is because the purpose of the cone in Zugg is to transport the gasses from the lower chamber to a point above the food in the bucket which surrounds the cone. Thus there is no reason for apertures in Zugg's cone, and thus there is no reason to design the cone of Zugg in that way. Zugg teaches away from a perforated cone, and thus there would be no reason to try to combine features from a device like Zugg with Rignell, and the fact that Zugg teaches away from the desired solution of Applicant's invention, Applicant submits that it would not be obvious to combine the references as argued by the Examiner.

The Examiner rejected claims 7 and 14 under 35 USC 103(a) based on Zugg, US Pat. No. 177,978, newly cited, in view of Rignell, US Pat. No. 2,722,883 or Galvak, US Pat. No. 1,290,168. Claim 7 has been amended to recite the place of attachment of the handle. Zugg discloses the handle being attached to the lowermost (first) chamber, as opposed to Applicant's second chamber. Therefore combining Zugg and Rignell would not result in Applicant's claimed invention, and there is no suggestion to attached Zugg at the top, not to mention that attaching it only at the top chamber would not permit the other chamber to be attached. The handle in Gavlak is only on the cover, not the sidewall of the second chamber. Thus claim 7 as amended should be allowable. With respect to

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claim 14, Applicant's comment's in the preceding paragraphs concerning Rignell and Zugg only are believed to address the limitations of claim 14 which Applicant submits is also allowable.

While Applicant agrees that claims 4 and 8 would be allowable as independent claims, it is believed that by clarifying Applicant's invention and by focusing on specific aspects of Applicant's claims which patentably distinguish the invention over the cited art, claims 1-14, and 16-18 are in condition for allowance. If the Examiner has any questions or comments which would expedite the issuance of a Notice of Allowance, a telephone call to the undersigned is requested .

Respectfully submitted,

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